

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-217698

Issued to: ANDRES SANCHEZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ANDRES SANCHEZ

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 14 December, 1951, and Examiner of the United States Coast Guard at Norfolk, Virginia, revoked Merchant Mariner's Document No. Z-217698 issued to Andres Sanchez upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as messman on board the American SS SANTA MARIA under authority of the document above described, on or about 9 January, 1949, while said vessel was in the port of Charleston, South Carolina, he illegally brought into the United States a quantity of narcotics; to wit, cocaine.

At the commencement of the hearing of 11 April, 1951, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by an attorney of his own selection. He entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and counsel for Appellant made their opening statements. The Investigating Officer then introduced in evidence certified extracts from the Official Log Book and Shipping Articles of the SANTA MARIA. Upon a request by the Investigating Officer to take depositions, counsel moved to quash the specification and charge on the ground that the evidence produced at the hearing, which was being conducted more than two years after the date of the alleged offense, was not sufficient to support the specification and charge. The Examiner denied the motion and on 11 April, 1951, he adjourned the hearing pending the taking of the depositions.

On 6 December, 1951, the hearing was reconvened and four depositions were received in evidence. After the Investigating Officer introduced in evidence some additional documents, Appellant testified under oath in his own behalf.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-217698 and all other

licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

This appeal is a plea for clemency in which Appellant contends that he is being deprived of his only means of livelihood; that he has paid for his mistake by spending twenty-one months in prison; that he is the sole support of his mother and two young children; and that he has never before been arrested. APPEARANCES: Sidney H. Kelsey, Esquire, of Norfolk, Virginia, of Counsel.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 9 January, 1949, Appellant was serving as messman on board the American SS SANTA MARIA and acting under authority of his Merchant Mariner's Document No. Z-217698 while said vessel was in the port of Charleston, South Carolina.

Appellant signed on the Shipping Articles of the SANTA MARIA on 29 November, 1948, for a foreign voyage. The ship departed from New York City on 4 December, 1948, and arrived at Antofagasta, Chile, on or about 18 December, 1948. While at this port, Appellant purchased one pound, one and one-eighth ounces of cocaine which he kept in his possession aboard ship. The vessel departed from Antofagasta on 19 December, 1948, and arrived at Charleston, South Carolina, on 9 January, 1949. The cocaine was still in Appellant's possession at this time. The ship left Charleston on 9 January, 1949, and entered the Port of New York on 11 January, 1949. Appellant was paid off for the voyage on the latter date and immediately signed Shipping Articles for the next voyage.

Appellant was apprehended, with the above quantity of cocaine in his possession, by narcotics agents in New York City on 13 January, 1949. Analysis by the Police Laboratory of the Police Department of the City of New York disclosed the nature and quantity of the substance. Upon questioning, Appellant revealed voluntarily and without coercion that he had purchased the cocaine while the SANTA MARIA was at Antofagasta on the recent voyage. For this offense, Appellant was convicted on his plea of guilty in the Court of Special Sessions of the City of New York and sentenced to the New York City Penitentiary on 11 February, 1949.

OPINION

In his testimony, Appellant denies the statements contained in the depositions of the four narcotics agents to the effect that Appellant admitted having purchased the cocaine in Chile and having transported it to Charleston while he was a member of the crew of the SANTA MARIA. Appellant testified that he first obtained possession of the narcotic after he accepted an offer of \$100 to go to Charleston and get it from a bus terminal where it had been checked by another member of the crew. This testimony was not accepted by the Examiner and, therefore, the order of revocation was supported by the substantially similar statements of the four deponents as to the admissions made by the Appellant at the time of his arrest with the cocaine in his possession.

In view of the serious nature of the offense and the policy of the Coast Guard to order revocation of all documents belonging to a seaman in such cases, I do not think that clemency is in order on the basis of the grounds stated in this appeal. It is unfortunate that Appellant must be deprived of sailing on American merchant marine vessels and that a hardship will be forced upon his family as a result of this action. But the more important consideration is the duty of the Coast Guard to protect lives and property at sea through these proceedings against the documents of undesirable and dangerous seamen. Any seamen who associate with narcotics are considered to be the greatest threat to safety at sea. For these reasons, Appellant's imprisonment for this offense does not satisfy the purpose of this remedial proceeding and cannot be substituted for this order of revocation.

ORDER

The order of the Examiner dated 14 December, 1951, should be, and it is, AFFIRMED.

A. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 8th day of July, 1952.